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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/831,279	06/07/2001	Ritva Laijoki-Puska	1390-0124P	4240

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EXAMINER
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KATCHEVES, BASIL S

ART UNIT	PAPER NUMBER
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3635

NOTIFICATION DATE	DELIVERY MODE
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08/21/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

## Office Action Summary

**Application No.**

09/831,279

**Applicant(s)**

LAIJOKI-PUSKA, RITVA

**Examiner**

Basil Katcheves

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2,4-8 and 10-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 4-8, and 10-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a). Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

Pending claims 2, 4-8, and 10-19 are examined below.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claims 4, 6, 8 and 15, the phrases “especially”, “or such like” and “and/or” renders the claim(s) indefinite because the claim(s) include(s) elements not actually disclosed (those encompassed by these terms), thereby rendering the scope of the claim(s) unascertainable. See MPEP § 2173.05(d).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 2, 4-8 and 10-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,709,099 to Blades et al. as in the previous action.**

Regarding claim 4, Blades discloses a spatial structure, inherent with walls and a ceiling, arranged for leisure (abstract) comprised of several separate spaces having different uses, inherently capable of being used for leisure, individual rooms having outer walls, and connected to a main common wall such as that of the main structure outer wall, and different regulated climates (column 3: lines 48-57), one of the climates being a Nordic type climate (frozen water in Abstract). However, Blades does not particularly disclose the use of rooms which are capable of simultaneously maintaining a different temperature than that of the Nordic like ice area. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include restrooms, eating facilities and utility rooms within the building, as these rooms are essential to operation of buildings and for housing people and commonly found within buildings. These rooms are inherently used at temperatures considered comfortable to

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people. Restrooms, utility rooms and eating facilities require a temperature which is higher than freezing.

Regarding claims 2, 5 and 13, Blades discloses separate spaces for different functions (column 3, lines 48-57) all enclosed in the same ice rink facility with temperatures which differ from each other.

Regarding claim 6, Blades discloses natural type areas (column 4, lines 25-30).

Regarding claim 7, Blades discloses a winter or summer temperature within the facility (Abstract- swimming or skating conditions are interchangeable).

Regarding claim 8, Blades discloses a space with water which includes an ice cover (column 9, lines 20-45).

Regarding claim 10, Blades discloses a method of presenting different climates from different geographies (Abstract- see ice skating and swimming features of facility). The air being regulated to freeze water or to provide a comfortable atmosphere for swimming, all enclosed in a conventional building (column 10, line 52). Also, the structure is inherently capable of being used for dwelling or presentation.

Regarding claim 11, Blades discloses the temperatures as changing in order to accommodate swimming, ice skating or other recreational activities.

Regarding claim 12, Blades discloses a pool structure having a refrigerating (column 9, lines 20-30) system.

Regarding claim 14, Blades discloses a transparent wall (fig. 1: 25) for observation.

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Regarding claim 15, Blades discloses a heating and refrigeration system as disclosed in the claims above and found in column 9. Refrigeration systems and heat systems inherently generate excess heat, as do typical electrical and gas temperature control systems.

Regarding claim 16, Blades discloses more than one main section with at least one section including a refrigerated area (fig. 8: see ice rink area and adjacent building page 111).

**Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,709,099 to Blades et al. in view of Russian Patent RU 2,116,097 to Petrovich et al. as in the previous action.**

Regarding claim 17, Petrovich discloses an enclosed area for sports which includes at least four areas having plants (Drawing 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Blades by adding plants in various areas, as disclosed by Petrovich, in order to increase the aesthetics of the structure, as plants are commonly found inside buildings and frequently used to enhance the aesthetics of the interior.

Regarding claim 18, Blades discloses a pool.

**Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,709,099 to Blades et al. in view of U.S. Patent No. 5,241,830 to Morioka et al.**

Regarding claim 19, Blades discloses a facility for used for multi purpose recreation such as skating. However, Blades does not disclose a ski slope as one of the recreations. Morioka discloses an indoor ski slope (fig. 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Blades by inserting the ski slope of Morioka in order to simulate an outdoor skiing climate in areas without snow.

### ***Response to Arguments***

Applicant's arguments filed 12/20/06 have been considered but are not persuasive. The applicant states that the Blades reference is different than that of the instant application because Blades can not regulate different temperatures. However, as explained in the rejection above, Blades discloses an ice rink which inherently must provide a temperature low enough to freeze ice. Also, such a structure inherently contains rooms which must be at higher temperatures, such as bathrooms and any possible eating or dining area. The applicant should also note that climate controlled sections are commonly found in typical buildings as well, where a user on one floor may have temperatures different from those on another floor. Variable temperature changes to a plurality of rooms is not new in the art. The applicant argues the use and function of the rooms. In response to applicant's argument regarding the functions of the rooms,

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a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The applicant argues the lack of animals or artistic structures in the prior art. The applicant should note that the claim is being interpreted broadly by the examiner and the limitations of "or structures" is met. Also, the applicant, again, argues function of the claimed subject matter such as the excess heat from the cooling system to be used in a summer activity area. The applicant should note that there is no structure claimed in this claim or these claims. If the prior art is capable of acting in a manner of providing for "summer activity", then it meets the claimed limitations. The applicant should ponder exactly how many infinite types of activities may be performed in the summer and also performed in a room. Regarding the Petravich application, the applicant states that they have only one page of it. In the art, first page, the figure showing the symbols of trees are shown.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The cited patents listed on the included form PTO-892 further show the state of the art with respect to indoor facilities in general.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is

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(571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK

  
Basil Katcheves

8/15/07

Primary Examiner AU 3635